IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE ACTING CHIEF JUSTICE MR.K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

WP(C).No. 19410 of 2006(S)

OA.390/2005 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONERS:
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1. UNION OF INDIA REPRESENTED BY THE
GENERAL MANAGER,SOUTHERN RAILWAY,
HEAD QUARTERS OFFICE, PARK TOWN PO, CHENNAI-3.

2. THE DIVISIONAL RAILWAY MANAGER,
SOUTHERN RAILWAY, PALGHAT DIVISION,
PALGHAT.

3. THE SENIOR DIVISIONAL PERSONNOL OFFICER,
SOUTHERN RAILWAY, PALGHAT DIVISION, PALGHAT.

4. THE CHAIRMAN,
RAILWAY BOARD, RAIL BHAVAN,
NEW DELHI.

BY ADV. SRI.M.C.CHERIAN,SR.SC.,RAILWAYS

RESPONDENTS:
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1. A.CHENNIAPPAN, AGED 59 YEARS,
S/O.AVANASI GOUNDER, SR TRACKMAN/SR/
UNDER SE/PW/PTJ NO.8/66, SEMMANDAM PALAYAM P.O.
SOMANUR (VIA) COIMBATORE DISTRICT.

2. R.SUBRAMANI, AGED 50 YEARS, S/O.RAMASAMY
SR TRACKMAN/SR/UNDER SE/PW/E/PTJ O.74
SEDAPALAYAM P.O., SOMANUR (VIA) COIMBATORE DISTRICT.

3. V.PALANISAMY, AGED 49 YEARS, S/O.VAIYAPURI
SR TRACKMAN/SR/UNDER SE.PW/E/O/PTJ
VAIKKALPALAYAM, SUPPARAYAN PUTHUR P.O.,
SOMANUR (VIA), COIMBATORE DISTRICT.
4. M.LAKSHMANAN, AGED 52 YEARS, S/O.MUTHUSAMY GOUNDER,
GANGMATE/SR/UNDER SE/PW/E/O/PTJ 15/63H2,

MARAPPALAM, DARMALINGAMKOIL STREET,
MADUKKARAI P.O., COIMBATORE DISTRICT.

5. P.BALASUBRAMANIAM, AGED 37 YEARS, S/O.PALANISAMY,
TRACKMAN,SR/UNDER SE/PW/W/PTJ 2/15,
KAMBAR STREET, ETTIMADAI P.O.
MADUKKARAI (VIA) COIMBATORE DISTRICT.

6. M.KRISHNAKUMAR, AGED 59 YEARS, S/O.MAYANDI,
GATE KEEPER/SR/UNDER SE/PW/E/PTJ
AMBAZAKODE HOUSE, PALLASANA P.O.,
CHITTUR (VIA), PALAKKAD DISTRICT.

7. A.SHANMUGHAM, AGED 48 YEARS, S/O.AYYASAMY,
SR GATE KEEPER/SR/UNDER SE/PW/E/O/PTJ
SULUR (VIA) COIMBATORE DISTRICT.

8. V.CHANDRAN, AGED 52 YEARS, S/O.KUTTAN,
TRACKMAN/SR/UNDER SE/PW/E/PTJ,
C/O.STATION MASTER, SOMANUR P.O., COIMBATORE DISTRICT.

9. V.MOOSAKOYA, AGED 52 YEARS, S/O.ABUBAKKAR,
RGK/SR/UNDER SE/PW/E/PTJ, WALLADATHIL HOUSE,
KADALUNDI P.O., CALICUT DISTRICT, KERALA STATE.

10. N.SIVANANDAN, S/O.NARAYANAN, GANGMATE/SR
UNDER SE/PW/E/PTJ, KILAKADUTHU KILAKKATHIL,
THALAVA P.O., KARUNAGAPPALLI, KERALA STATE.

11. M.VASU, AGED 56 YEARS, S/O.MURUGANDI,
SR.TRACKMAN/SR/UNDER SE/PW/E/PTJ. C/O.STATION MASTER,
SOMANUR P.O., COIMBATORE DISTRICT.

12. S.PUSHPAM, AGED 50 YEARS, W/O.UKKAPPAYYAN,
TRACKWOMAN/SR/UNDER SE/PW/E/PTJ NO.9, RAMASAMY
VATHIAR STREET, IRUGUR P.O., COIMBATORE DISTRICT.

13. K.CHINNASWAMY, AGED 47 YEARS, S/O.KALIMUTHU,
GANGMATE/SR/UNDER SE/PW/E/PTJ, C/O.STATION MASTER,
SOMANUR P.O., COIMBATORE DISTRICT.

14. N.SREEDEVI, AGED 53 YEARS, W/O.KUMARAN,
SR.TRACKWOMAN/SR/UNDER SE/PW/PTJ, C/O.STATION MASTER,
SOMANUR P.O., COIMBATORE DISTRICT.

15. K.RAMAN, AGED 51 YEARS, S/O.KANDAN,
SR TRACKMAN/SR/UNDER SE/PW/E/TJ, KONNODU,
(OPP) KANJIKODE RAILWAY STATION,
KANJIKKODE P.O., PALAKKAD DISTRICT.

16. N.KURUPPANNASAMY, AGED 47 YEARS, S/O.NAINAN,
SR TRACKMAN/SR/UNDER SE/PW/E/PTJ, NO.75/6,
CHAROH ROAD (OPP), SOMANUR P.O.,
PALLADAM TALUK, COIMBATORE DISTRICT.

17. C.RAMASAMY, AGED 55 YEARS, S/O.CHENNIMALAI,
KEYMAN/SR/UNDER SE/PW/E/PTJ, NO.6/60,
PILLAYARKOIL STREET, UNJAPALAYAM P.O.,
SOMANUR (VIA), COIMBATORE DISTRICT.

18. MOHAN RAJ, AGED 47 YEARS, S/O.VISHVANATHAN,
KEYMAN/SR/UNDER SE/PW/E/PTJ,
THANNEERPANTHAL KADU, SEMMAN DAM PALAYAM P.O.
SOMANUR (VIA), COIMBATORE DISTRICT.

19. K.CHANDRIKA, AGED 53 YEARS, D/O.KRISHNAN,
SR TRACKWOMAN/SR/UNDER SE/PW/W/PTJ,
THOTTINGAL HOUSE, MELEAPURAM, VAGANASALA,
OLAVAKKODE P.O., PALAKKAD DISTRICT.

20. C.K.VALSALA, AGED 55 YEARS, W/O.ACHUTHAN,
SR TRACKWOMAN/SR/UNDER SE/PW/W/PTJ
KANAKAVALLIYAL HOUSE, MELEAPURAM VAGANASALA,
OLAVAKKODE P.O., PALAKKAD DISTRICT.

21. A.PUGALENTHI, AGED 51 YEARS, S/O.ARUMUGAM,
KEYMAN/SR/UNDER SE/PW/E/PTJ
MARUTHIPATTY P.O., MORAPPUR (VIA)
ARUR TALUK, DARMAPURI DISTRICT.

22. R.MUTHUSAMY, AGED 47 YEARS, S/O.RAMAN,
SR TRACKMAN/SR/UNDER SE/PW/E/PTJ, NO.40
MGR NAGAR, SEDAPALAYAM ROAD,
SOMANUR (VIA) COIMBATORE DISTRICT.

23. C.SUNDARI, AGED 54 YEARS, W/O.SUNDARAN,
SR TRACKWOMAN/SR/UNDER SE/PW/W/PTJ
PALLAKKATTUTHODI HOUSE, KINAVALLORE
PARLI P.O., PALAKKAD DISTRICT.

BY ADV. SRI.T.C.GOVINDA SWAMY
SMT.D.HEERA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.19410 OF 2006-S

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1 TRUE EXTRACT OF RULES 1701 TO 1705 CONTAINED IN CHAPTER XVII OF RAILWAY ESTABLISHMENT CODE VO.II

EXT.P2 TRUE COPY OF ORDER/LETTER NO.PC(3)73/HRA DATED 13.6.1974 OF RAILWAY BOARD.

EXT.P3 TRUE COPY OF ORDER/LETTER NO.P(PC)524/GENL./HR & CCA DATED 20.7.1974 OF SOUTHERN RAILWAY ALONG WITH CONSTITUENT UNITS OF URBAN AGGLOMERATION IN SOUTHERN RAILWAY.

EXT.P4 TRUE COPY OF ORDER/LETTER NO.E(P&A)II-76/HRA-I DATED 16.2.1976 OF RAILWAY BOARD.

EXT.P5 TRUE COPY OF ORDER/LETTER NO.PC(3)/73/HRA DATED 26.12.1977 OF RAILWAY BOARD.

EXT.P6 TRUE COPY OF ORDER/LETTER NO.P(B)/54/P/MISC/VOL.II DATED 31.8.1983 OF SOUTHERN RAILWAY ENCLOSING LIST OF URBAN AGGLOMERATIONS.

EXT.P7 TRUE COPY OF ORDER/LETTER NO.E(P&A)II-96/HRA-CCA/3 DATED 14.5.1996 OF RAILWAY BOARD.

EXT.P8 TRUE COPY OF ORDERE/LETTER NO.E(P&A)II/90/HRA/CCA-18 DATED 19.7.1993 OF RAILWAY BOARD ALONG WITH ANNEXURE I AND 22 TO THE SAME

EXT.P9 TRUE COPY OF O.A.NO.277/1998 OF CAT/ERNAKULAM WITHOUT ANNEXURES

EXT.P10 TRUE COPY OF REPLY STATEMENT IN O.A.NO.277/1998 OF CAT/ERNAKULAM.

EXT.P11 TRUE COPY OF ORDER DATED 22.2.2000 OF CAT/ERNAKLULAM IN O.A.NO.277/1998

EXT.P12 TRUE COPY OF JUDGMENT DATED 19.9.2003 OF THIS COURT IN O.P.NO.19807/2000

EXT.P13 TRUE COPY OF ORDER DATED 16.11.2004 OF APEX COURT IN S.L.P.NO.(a) 8166/2004

EXT.P14 TRUE COPY OF O.A.NO.390/2005 OF CAT/ERNAKULAM ALONG WITH ANNEXURES A7,A5 & A6

EXT.P15 TRUE COPY OF REPLY STATEMENT FILED IN O.A.NO.390/2005 ALONG WITH ANNEXURES.

EXT.P16 TRUE COPY OF ORDER DATED 28.4.2006 IN O.A.NO.390/2005 OF CAT/ERNAKULAM.

/ TRUE COPY /

K.S.RADHAKRISHNAN, Ag.C.J.,
THOTTATHIL B.RADHAKRISHNAN &
M.N.KRISHNAN, JJ.

W.P.(C) No.19410 of 2006

Dated, this the 28th day of March, 2007

JUDGMENT

Radhakrishnan, Ag.C.J.

This matter has been placed before us on a reference by a Division Bench of this Court stating that a substantial question of law of public importance arises for consideration. The question that arises for consideration is whether the provisions of para 1705(2)(ii) of the Indian Railways Establishment Code envisages eligibility of HRA for places falling within 8 Kms. of the peripheral municipal limit of the qualified city or from the qualifying area of the City/Urban agglomeration. Tribunal while deciding that question placed reliance on its earlier order passed in O.A.No.277 of 1998 wherein it took the view that the employees who are working in the Somanur Railway Station which lies within 8 Kms. from the periphery of Muthu Gounden Pudur Railway Colony would be entitled for payment of HRA. O.P.No.19807 of 2000 was filed challenging that order which was dismissed by a

Division Bench of this Court on 19th September, 2003. The matter was carried to the Supreme Court by filing S.L.P.No.8166 of 2004, which was also dismissed. Claiming similar benefits the respondents herein have preferred an application, O.A.No.390 of 2005 before the Central Administrative Tribunal, Ernakulam Bench. Following the earlier order passed by the Tribunal in O.A.No.277 of 1998, as affirmed by this Court as well as the Supreme Court, the Tribunal allowed the application granting similar benefits to the applicants therein also since the Somanur Railway Station was already treated as an area within the expression of qualified city.

2. Leaned counsel appearing for the Railways submitted that this Court should examine the correctness or otherwise of the view expressed by the Tribunal which was rendered on the strength of an earlier order passed by it. He also submitted that though an S.L.P. was filed against that decision the same was dismissed by a one line order. Counsel for the Railways voiced an apprehension that similar benefits would also be claimed by employees working in nearby stations, applying the same principle. We make it clear that we are dismissing this appeal,

since this Court has already declared Somanur Railway Station as part of the qualified city and that order has become final so far as the Railways is concerned. We, therefore, find no reason to unsettle that settled position. All the same we make it clear that the principle laid down by this Court in O.P.No.19807 of 2000 would be confined to the facts of that case which cannot be treated as a precedent, but would relate only to Somanur Railway Station.

Writ petition lacks merit and the same is dismissed as above.

K.S.RADHAKRISHNAN,
Ag.CHIEF JUSTICE.

THOTTATHIL B.RADHAKRISHNAN,
JUDGE

M.N.KRISHNAN,
JUDGE.

vns